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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS FALCK and HENNING MAASS

Appeal 2009-004278
Application 10/563,846¹
Technology Center 2600

Decided: September 29, 2009

Before KENNETH W. HAIRSTON, MARC S. HOFF, and THOMAS S. HAHN, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The real party in interest is Koninklijke Philips Electronics N.V.

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 from a Final Rejection of claims 11-16.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants' invention relates to a system and method for giving a presentation on an image-showing device (such as a projector) from a mobile device. If the mobile device has access to a company's internal network, a wireless connection is made to the projector over the internal network. If the mobile device belongs to a visitor who does not have access to the internal network, an ad-hoc wireless connection is made between the mobile device and the projector (Abstract).

Claim 11 is exemplary of the claims on appeal:

- 11 A system for giving a presentation, comprising:
an internal communication network adapted for access by an internal wireless device and a visitor wireless device;
a mobile data carrier operative to load software to the visitor wireless device and to set the visitor wireless device to an ad-hoc mode;
an image-showing device comprising a wireless communication interface, wherein the internal wireless device is adapted to access the image-showing device via the internal network.

The Examiner relies upon the following prior art in rejecting the claims on appeal:

Okanoue	US 6,307,843	Oct. 23, 2001
Slobodin	US 2002/0196378 A1	Dec. 26, 2002
Kammer	US 2003/0087602 A1	May 8, 2003

Harry Newton, "Newton's Telecommunication Dictionary," p. 45.

IEEE 100: The Authoritative Dictionary of IEEE Standards Terms, p. 19.

² Claims 1-10 and 17-23 have been cancelled.

Claims 11 and 13-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kammer in view of Slobodin.

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kammer in view of Slobodin and Okanoue.

Throughout this decision, we make reference to the Appeal Brief (“Br.” filed June 24, 2009) and the Examiner’s Answer (“Ans.” mailed August 6, 2009) for their respective details.

ISSUES

Appellants argue that Kammer fails to teach that its mobile data carrier is operative to load software to the visitor wireless device, or that the mobile data carrier is operative to set the visitor wireless device to an ad-hoc mode (App. Br. 5).

Appellants’ contentions present us with the following issues:

1. Have Appellants shown that the Examiner erred in finding that Kammer teaches a mobile data carrier operative to load software to a visitor wireless device?

2. Have Appellants shown that the Examiner erred in finding that Kammer teaches a mobile data carrier operative to set the visitor wireless device to an ad-hoc mode?

FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

The Invention

1. Appellants’ Specification discloses that in infrastructure mode, wireless terminal devices communicate with other terminal devices via a

base station, and in ad-hoc mode, “wireless terminal devices are able to communicate with one another directly, i.e. without the help of base stations” (Spec. 5).

Kammer

2. Kammer teaches that “[t]o support local area wireless communications, handheld computer 100 may include wireless connectivity software ... further added via an expansion card” (¶ 0027). “Expansion card 124, including an RF transceiver, may be installed in handheld computer 100 via an expansion slot 122” (*id.*).

3. Handheld computer 100 includes “local area wireless technology to permit wireless communication with other portable electronic devices and computing devices that have compatible communication technology” (¶ 0026).

Slobodin

4. Slobodin teaches wireless transmission of a digital image to a presentation projector using a reduced amount of bandwidth, by transmitting a subset of the digital image data (Abstract).

Okanoue

5. Okanoue teaches an ad hoc network in which mobile hosts are connected to each other via direct wireless links (col. 1, ll. 9-11).

PRINCIPLES OF LAW

On the issue of obviousness, the Supreme Court has stated that “the obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 419 (2007). Further, the Court stated “[t]he combination of

familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416. “One of the ways in which a patent’s subject matter can be proved obvious is by noting that there existed at the time of the invention a known problem for which there was an obvious solution encompassed by the patent’s claims.” *Id.* at 419-420.

“It is well settled that a prior art reference may anticipate when the claim limitations not expressly found in that reference are nonetheless inherent in it. Under the principles of inherency, if the prior art necessarily functions in accordance with, or includes, the claimed limitations, it anticipates.” *In re Cruciferous Sprout Litig.*, 301 F.3d 1343, 1349 (Fed. Cir. 2002) (citations and internal quotation marks omitted). “Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999) (citations and internal quotation marks omitted).

ANALYSIS

CLAIMS 11 AND 13-16

We select claim 11 as representative of this group of claims, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

Appellants, while conceding that Kammer teaches that expansion card 124 may include an RF transceiver (Kammer ¶ 0027), argue that Kammer contains no suggestion that expansion card 124 is operative to load software to the visitor wireless device, i.e., Kammer’s handheld computer 100 (App. Br. 5). According to Appellants, although Kammer suggests that wireless connectivity software may be added via an expansion card or transferred

from another computer, Kammer does not suggest that the card is operative to load software (App. Br. 6, citing Kammer ¶ 0027).

We do not agree with Appellants that Kammer's disclosure fails to amount to a suggestion that expansion card 124 is not "operative to load software." The very paragraph of Kammer cited by Appellants states that "[t]o support local area wireless communications, handheld computer 100 may include wireless connectivity software ... further added via an expansion card" (FF 2). "Expansion card 124, including an RF transceiver, may be installed in handheld computer 100 via an expansion slot 122" (FF 2). Kammer thus teaches that the express purpose of an exemplary expansion card added to a handheld computer is to support local area wireless communications, and that it includes the hardware (RF transceiver) and software necessary to effectuate such communications. We agree with the Examiner's tacit finding that it is inherent in Kammer that such an expansion card *necessarily* is operative to load software to the handheld computer such that local area wireless communication by that handheld computer may occur.

Appellants further argue that Kammer fails to teach a mobile data carrier operative to set the visitor wireless device to an ad-hoc mode (App. Br. 5). According to Appellants, Kammer's teaching that handheld computer 100 includes "local area wireless technology to permit wireless communication with other portable electronic devices and computing devices that have compatible communication technology" (FF 3) is insufficient to suggest setting the visitor wireless device to ad-hoc mode. Appellants' Specification discloses, however, that in infrastructure mode, wireless terminal devices communicate with other terminal devices via a

base station, and in ad-hoc mode, “wireless terminal devices are able to communicate with one another directly, i.e. without the help of base stations” (FF 1). Kammer teaches wireless communication between wireless-capable devices, and does not mention the use of a base station. We therefore find that Kammer, given the lack of a base station, inherently teaches that communication between wireless-capable devices takes place in an ad-hoc mode, and further find that Kammer inherently teaches setting the visitor wireless device (handheld computer 100) to an ad-hoc mode (*see Ans.* 9).

Appellants have not established error in the Examiner’s proposed combination of references. Thus, we will sustain the rejection of claims 11 and 13-16 under 35 U.S.C. § 103(a) as being unpatentable over Kammer in view of Slobodin.

CLAIM 12

With respect to claim 12, Appellants argue only that Okanoue fails to remedy the deficiencies of the combination of Kammer and Slobodin asserted with respect to the rejection of claim 11. However, because we affirm the rejection of parent claim 11, from which claim 12 depends, we will affirm the rejection of dependent claim 12 under § 103 for the same reasons expressed with respect to claim 11, *supra*.

CONCLUSIONS OF LAW

1. Appellants have not shown that the Examiner erred in finding that Kammer teaches a mobile data carrier operative to load software to a visitor wireless device.

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2. Appellants have not shown that the Examiner erred in finding that Kammer teaches a mobile data carrier operative to set the visitor wireless device to an ad-hoc mode.

ORDER

The Examiner's rejection of claims 11-16 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

ELD

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